

Chatham, Massachusetts
Fuel Storage Systems Regulation
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Board of Health

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Town of Chatham
Board of Health

FUEL STORAGE SYSTEMS REGULATION

WHEREAS, leaking fuel storage systems pose an immediate and serious threat to Cape Cod's sole-source aquifer, and, WHEREAS, the Town of Chatham does not have records to locate all such storage systems installed within the Town, THEREFORE, under Chapter 111, Section 319 of the Massachusetts General Laws, the Chatham Board of Health hereby adopts the following regulation to protect the ground and surface waters from contamination by the means of fuel storage system leakage.

The following regulation shall apply to all fuel storage systems not currently regulated by 527 CMR 9.00 Tanks and Containers of the Fire Prevention Regulations. This includes, but is not limited to,

- (a) residential and commercial fuel storage systems storing or having stored fuel for consumptive use on the premises for the purpose of heating a building⁹
- (b) farm or residential fuel storage systems of 1100 gallons capacity or less used for storing motor fuel for noncommercial purposes.

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SECTION 1 DEFINITIONS

For the purposes of this regulation the following terms shall have these meanings assigned to them.

Fuel - all liquid hydrocarbon products including, but not limited to, gasolines, motor fuels, kerosene, home heating oils, diesel fuels or any liquid either pressurized or occurring at normal temperature and pressure, which will emit a vapor which can be ignited by a flame or spark.

Storage System - any tank, drum, container or other holding device, which can hold fifty (50) gallons or more and which is constructed in such a manner that it has an inlet (or fill) pipe and an outlet (or withdrawal) pipe and which is used for the purpose of storing fuel.

Aboveground - existing on or above the surface of the ground. Underground Storage System - any fuel storage System, except in-house storage Systems, which has any portion of its contents, body or piping below the grade of the earth's surface.

In-House System - any fuel storage system which exists in the confines of any house, barn, dwelling or other building and is surrounded by impervious material (Le., concrete, masonry, etc.) in such a way that a spill would be contained.

Abandoned - out of service for a period of twelve consecutive months or longer.

Water resources area - any land subject to flooding and inundation by groundwater, surface water or tidal action, including but not limited to: Freshwater/vegetated meadows, marsh, wet meadow, bog, swamp, coastal wetland, bank (coastal or inland), beach, dune, flat, lake, river, pond (coastal or inland), stream, creek, ocean, estuary, watercourse (either wholly or partially man-made) and any bordering or isolated land subject to flooding; the exact definitions of which, can be found in the Town of Chatham Conservation Commission Wetlands Protection Regulation 12/86.

SECTION 2. GENERAL REQUIREMENTS

2.1 The installation of all underground storage systems containing fuel, as defined above, shall be permitted only when a variance, as set forth in Section 9, has been granted by the Board of Health.

2.2 All aboveground storage systems must have a clearance of at least twelve (12) inches

between the bottom of the system and the earth's surface. The area beneath the system must be kept free of grass and weeds and should be covered with a bed of white or light colored pea stone.

2.3 Aboveground storage systems must be maintained to protect them from the elements in such a way that satisfies the Board of Health and the Fire Department.

SECTION 3. TANK REGISTRATION

3.1 Effective July 1, 1988, owners must file an official registration of each storage system giving the size, type, age, type of containment System and type of fuel being stored. Evidence, if any of the date of purchase and the date of installation, including Fire Department permit, shall be included along with a sketchmap showing the location of such system on the property. The sketch map shall be drawn on the back side of the Fuel Storage System Registration Form, which can be obtained at the Health Department, or on a sheet of paper 8 ½ * 11 inches. The following information shall be provided:

1. Approximate distance of storage system from building located on the same lot;
2. Location and distances off storage system of private and public wells within a one hundred (100) foot radius;
3. Distances to any part of a water resources area which is within a one hundred (100) foot radius;
4. Location and distances off storage systems of storm drains, subsurface drains and catch basins which are within a one hundred (100) foot radius.

If the age of any system is not known, it shall be assumed to be twenty five (25) years old.

3.2 Upon registering the storage system with the Board of Health the owner will receive a permanent tag embossed with a registration number unique to that system. This registration tag must be affixed to the fill pipe in such a location as to be visible to any distributor when filling said tank or to any inspection authorized by the Town of Chatham. In the event that an inground fill box is used, the tag shall be affixed to the vent pipe in a visible location. A registration fee of five (5) dollars is required.

3.3 Effective January 1, 1989, every fuel distributor shall notify the Board of Health within five (5) working days of the existence and the location of any unregistered untagged or wrongly tagged fuel storage system which they are requested to fill.

3.4 Owners of a property which contains a fuel storage system must provide the Board of Health with change of ownership information prior to the date of conveyance of said property. A form for this purpose will be available at the Health Department.

3.5 In-house storage systems, as defined above, are exempt from this section, In-house storage systems which are located on earthen floors or other pervious surfaces are considered aboveground systems and must be registered.

SECTION 4 TESTING

4.1 Effective January 1, 1989, owners of underground storage systems shall have each tank and its piping tested for tightness fifteen (15) years after installation and annually after nineteen (19) years. A storage system shall be tested by any method approved of by the Board of Health. Certification and results of testing shall be submitted to the Board of Health by the testing company within six (6) months of the testing anniversary date.

4.2 The Board of Health may require the owner of an existing storage system to have it and its piping tested if there is reason to believe it constitutes a danger to the public or environmental health or if the owner has not shown good faith in application and/or testing procedures.

4.3 The Board of Health may require owners of existing underground fuel storage systems to have a soil sample boring or deep observation hole performed to determine soil type and depth to groundwater.

4.4 All testing shall be done by a qualified firm approved of by the Board of Health

SECTION 5 REPORT OF LEAKS OR SPILLS

5.1 Any person who is aware of a spill, loss of product or any unaccounted for increase in consumption which may indicate a leak shall report such spill or loss of product immediately to the Fire Department.

SECTION 6 STORAGE SYSTEM REMOVAL

6.1 If at any time evidence of leakage from any fuel storage system is discovered, that system shall be removed.

6.2 Aboveground tanks which, in the opinion of the Board of Health or any inspector authorized by the Town of Chatham, shows signs of leakage, excessive wear or excessive rusting, shall be removed.

6.3 Any fuel storage system which must be removed, shall be removed by a licensed hazardous waste removal company.

6.4 Prior to the removal of any fuel storage system a licensed hazardous waste removal company shall first obtain a permit of removal from the Fire Department, pursuant to M.G.L., c. 148.

6.5 Any licensed hazardous waste removal company granted a permit by the

Marshal or the Fire Department to remove a storage system under the provisions of M.G.L., c. 148 or 527 CMR 9.00, shall within seventy two (72) hours provide the Fire Department with a receipt for delivery of said system to the site designated on the permit.

6.6 No storage system shall be allowed to be disposed of or stored in the Chatham Landfill.

6.7 No storage system shall be relined, repaired or in any way reused.

SECTION 7 STORAGE SYSTEMS ABANDONED

7.1 Any person having knowledge of a fuel storage system that is abandoned shall notify the Fire Department or the Board of Health.

SECTION 8 COSTS

8.1 In every case the owner shall assume the responsibility for costs incurred necessary to comply with this regulation.

8.2 All costs associated with site spill clean-up shall be the responsibility of the owner.

SECTION 9 VARIANCES

9.1 Variances from this regulation may be granted by the Board of Health after a hearing at which the applicant establishes the following:

- (1) the enforcement thereof would do manifest injustice; and
- (2) installation or use of an underground storage system will not adversely effect public or private water resources and/or public or private drinking water supplies.

9.2 Every request for a variance shall be made in writing to the Board of Health and shall state the specific variance(s) sought and the reasons thereof. The applicant must notify all abutters and the Fire Department by certified mail at least ten (10) days before the Board of Health meeting at which the variance request will be considered.

In considering a variance the Board of Health will take into consideration the depth to groundwater, direction of groundwater flow, soil conditions, size, shape and slope of the lot, and proximity to existing and future water supplies. The Board of Health will require the owner to provide a site plan drawn by a professional engineer showing this information as well as the design criteria necessary to comply with the pertinent sections of 310 CMR 9.00 Tanks and Containers, proposed storage system location, setback distances, arrangement of piping and any other information it deems necessary. The Board of Health may require that an environmental impact study be conducted for the area in which a proposed storage system is to be located.

9.3 All applications set forth in the State Fire Prevention regulation, 527 CMR

9.00 Tanks and Containers, must be complied with when installing a fuel storage system.

9.4 Only UL-listed double-walled steel storage systems with an in-tank or interstitial space monitoring system and with an impervious liner beneath them shall be allowed for all new or replacement underground fuel storage systems.

9.5 No part of any underground fuel storage system shall be placed in the water table.

SECTION 10 ENFORCEMENT

10.1 Any owner who violates any provision of this regulation shall be subject to the penalties provided under M.G.L. c. 111, s.31, as amended. Each day during which such violation continues shall constitute a separate offense.

SECTION 11 HEARING

11.1 Procedure for Requesting and Holding Hearings - Unless otherwise specified in this regulation, the person or persons to whom any Order has been served pursuant to any SECTION of this regulation may request a hearing before the Board of Health by filing, within seven (7) days after the day the Order was served, a written petition requesting a hearing on the matter. Upon receipt of such petition the Board of Health shall set a time and place for such hearing and shall inform the petitioner thereof in writing. The hearing shall be commenced not later than forty-five (45) days after the day on which the order was served. The Board of Health, upon application of the petitioner, may postpone the date of the hearing for a reasonable time beyond such forty-five (45) day period if in the Judgement of the Board of Health the petitioner has submitted a good and sufficient reason for such postponement.

11.2 Hearing of Petition - At the hearing the petitioner shall be given an opportunity to be heard and to show cause why the Order should be modified or withdrawn.

11.3 Procedure by the Board of Health after Hearing - After the hearing the Board of Health shall sustain, modifies or withdraw the Order and shall inform the petitioner in writing of its decision. If the Board of Health sustains or modifies the Order it shall be carried out within the time period allotted in the original Order or in the modification.

11.4 Public Record - Every notice, Order, or other record prepared by the Board of Health in connection with the hearing shall be entered as a matter of public record in the office of the Board of Health.

11.5 Hearing Petition not Submitted, or Sustaining of Order - If written petition for a hearing is not filed with the Board of Health within seven (7) days of the day the Order was served or if, after hearing, the Order has been sustained in any part, each days failure to comply with the Order as issued or modified shall constitute a separate offense.

SECTION 12 APPEAL

12.1 Any person aggrieved by the decision of the Board of Health may seek relief therefrom within thirty (30) days in any court of competent Jurisdiction, as provided by the laws of this Commonwealth.

SECTION 13 SEVERABILITY

13.1 If any sentence, clause or phrase of this regulation shall be held invalid for any reason, the remainder of that SECTION and all other SECTIONS shall continue in full force.